

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMANUEL MANNY BROOKS, JR.,

Plaintiff,
-against-

MS. ZHANE TABORN, GENERAL MANAGER
OF CHIPOTLE RESTAURANT,

Defendant.

21-CV-4472 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

On May 14, 2021, Plaintiff, who was detained in the Westchester County Jail, filed this action *pro se*. Plaintiff submitted the complaint without the \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee – or, a request authorization to proceed *in forma pauperis* (IFP) and prisoner authorization. By order dated May 20, 2021, the Court directed Plaintiff, within thirty days of the date of that order, to either pay the filing fees or submit an IFP application and prisoner authorization. (ECF No. 2.)

On June 10, 2021, the Court received a letter from Plaintiff that, much like Plaintiff's complaint, is not the model of clarity. It appeared that Plaintiff, in his letter, was seeking injunctive relief. By order dated June 25, 2021, the Court advised Plaintiff that it could take any action on his complaint or his letter until he paid the filing fees or submitted an IFP application and prisoner authorization. Because Plaintiff's time to comply with the Court's May 20, 2021 order had expired, in an abundance of caution, the Court granted Plaintiff an additional thirty days to comply with the May 20, 2021 order. Plaintiff therefore had until July 25, 2021, to comply with the Court's May 20, 2021 order.

On July 20, 2021, the Court's June 25, 2021 order was returned to the Court with a notation on the envelope indicating that the mail was undeliverable to Plaintiff at the Westchester

County Jail, and that the mail could not be forwarded. Plaintiff has not complied with the Court's May 21, 2021 order, has failed to notify the Court of a change of mailing address, and has not initiated any further contact with the Court, written or otherwise. Accordingly, Plaintiff's complaint, filed IFP pursuant to 28 U.S.C. § 1915(a)(1), is dismissed without prejudice. *See* 28 U.S.C. §§ 1914, 1915.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: July 28, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge